

DETAILED ACTION

This office action is a response to Applicant's amendment submitted December 10, 2007, wherein claims 1-20 are cancelled and new claims 21-24 are added.

Applicant's amendment in response to the Office Action dated August 8, 2007, filed on December 10, 2007, canceling all previous claims 1-20 wherein the invention is entirely drawn to a composition herein whereas newly submitted claims 23-42 are entirely directed to the invention of "a method for promoting hyaluronic acid production in skin, comprising applying to the skin a composition" that is independent or distinct from the invention claimed in claims 1-20, is considered non-responsive to the previous Office Action for the following reasons:

Since applicant has received an action on the merits for all pending claims 1-20 as the presented invention dated August 8, 2007, according to MPEP § 819, the general policy of the Office is not to permit the applicant to shift to claiming another invention.

In the instant case, previously pending claims 1-20 entirely drawn to the composition herein have been shifted by Applicant to another invention; a method that is independent or distinct from the claimed composition previously. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using or making the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)).

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Note that a reference to the composition herein would not necessarily be a reference to the method of making herein under 35 USC 103. The composition and method herein have separate consideration as to patentability.

Therefore, the amendment regarding the method claims 23-42 is considered non-responsive to the previous Office Action.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Sean Passino on January 1, 2008.

The claims have been amended as follows:

Claims 23-42 are cancelled.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

In view of Applicant's amendment submitted December 10, 2007, the objection to the specification for lacking a description of the drawings is withdrawn.

In view of the cancellation of claims 1-20 and 23-42, all rejections made with respect to those claims in the previous office action are withdrawn.

The claimed compositions comprising are not taught or fairly suggested by the prior art. The closest prior art, Boullanger et al. and Shimizu (made of record in the office action dated August 8, 2007), teaches compounds having either a fatty acid moiety or a fatty alcohol moiety, but not compounds having both. Applicant's remarks regarding the combination of these references, found on page 14 of the response dated December 10, 2007, are persuasive.

Accordingly, Applicant's amendment and the accompanying examiner's amendment are sufficient to remove all rejections made in the prior office action as discussed above and to place the application in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAYLA BLAND whose telephone number is (571)272-9572. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anna Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Layla Bland/
Examiner, Art Unit 1623

/Shaojia Anna Jiang/

Supervisory Patent Examiner, Art Unit 1623